

Remarks

This Amendment is respectfully submitted in reply to the Examiner's Official Action dated August 10, 2005. In the Official Action, the Examiner noted that claims 1-15 are currently pending in the application. Applicant proffers the enclosed arguments and amendments to support the claims in the application. The Applicant believes all claims, as amended, are now in an allowable condition.

The Examiner has first required that the current status of priority application number 10/145,051 must be stated. The priority application issued as U.S. Patent 6,720,490 on April 13, 2004, and the application has been amended in Section B above accordingly to reflect such information. Applicant has also now carefully reviewed the specification and drawings of the application and has made certain revisions to the specification to correct language, punctuation, and editing errors noted, as well as to amend imprecision's in the description. No new matter has been added. The corrections and revisions made are believed to place the application in better condition for issue into a patent.

The Examiner has rejected pending claims 1, 2, 5-9, and 12 due to obviousness-type double patenting in view of claims 1, 2, and 7-10 of Applicant's previously issued U.S. Patent 6,720,490. Attached to this Amendment is a Terminal Disclaimer, which it is believed overcomes such rejection.

In addition, claims 1-5, 14, and 15 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. While Applicant is of the opinion that some of such claims are in fact definite, Applicant has further amended the claims as suggested by the Examiner where such suggestions were made. Accordingly, it is respectfully

submitted that the claims now satisfy the requirements under 35 USC 112, second paragraph, and withdrawal of this rejection is respectfully requested.

Claims 1, 4, 5, and 12 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent 4,067,527 issued to **J.L. Streit** on January 10, 1978, entitled "*Musical Instrument Support Stand With Counter-Balanced, Vertically Movable Horn Support Rack*", in view of U.S. Patent 4,407,182 issued to **A.R. Biasini** on October 4, 1983, entitled "*Musical Instrument Stand*". In addition, claims 2 and 10 stand rejected under 35 USC 103(a) as being obvious over **Streit** in view of **Biasini** and further in view of U.S. Patent 6,215,054 issued to **K.S. Woodhouse** entitled "*Musical Instrument Support Stand*". The Examiner has indicated that claims 11 and 13 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner's rejections are traversed below.

The **Streit** reference discloses an instrument support having a foldable U-shaped base and a rack for holding a heavy instrument, and is particularly designed for use by small children not yet physically strong enough to hold and play an instrument such as a tuba. The **Biasini** reference discloses a tripod-type stand wherein in one embodiment the legs are telescoping. The Examiner indicates that **Streit** discloses a stand having a U-shaped base capable of supporting an apparatus resting on the floor, and having pivotally attached legs, and further that it would be obvious to provide the U-shaped frame base or frame of **Streit** with telescopic legs such as shown in **Biasini**, which legs may be reduced in size for storage and transportation purposes. Applicant respectfully disagrees with the assertion, however, that such combination renders the present invention obvious. There is no teaching in **Streit** or in **Biasini** that the legs of such stands may be set at different positions depending upon the arrangement or setup of

equipment on a crowded stage or the like so as to avoid physical conflict with such equipment. The legs of the **Streit** stand are not length adjustable, as such stand is designed to hold a heavy horn while fitting around a musician's chair, and the legs therefore do not need to be length adjustable. The problem solved by the present invention was never encountered and therefore never addressed by **Streit**. In addition, the tripod-like legs of the **Biasini** stand, while telescoping, have only two positions; a fully extended position during use, or a collapsed position when not in use, at which time the legs are stored within the hollow bottom end of the hub member of the stand. While two of the leg members of the **Streit** stand are foldable so that they are parallel to the center portion of the base, such folding position is similarly only for storage of the device.

In other words, the bases of both the **Streit** and **Biasini** stands have only a single deployed position, while the base of Applicant's stand through necessity might be placed in or adjusted to any number of fully deployed positions. Applicant's arrangement thus has numerous advantages and applications not found in or contemplated by inventors of prior art stands, particularly with respect to the ability to access and arrange musical equipment on a small or crowded stage area. The center section of Applicant's stand can be positioned very close to the front edge of a stage, while the length of the telescoping legs can be adjusted to encompass or make room for various other equipment on the stage floor, such as a guitar foot controller device or amplifier. Such arrangement is a vast improvement over conventional microphone or musician's equipment stands having a round base situated directly beneath an upwardly extending support post, or having tripod-type legs, wherein the legs extend downwardly from above. In such other stands, the base or legs would interfere with the positioning of a foot controller or amplifier directly in front of or behind the performer. As indicated in the specification, Applicant's stand base may also be used to hold various musical

accessory equipment devices off of a stage floor out of the way but in a ready-for-use position. For example, as shown in FIGS. 18-19, the telescopingly adjustable legs of the base can be adjusted to fit around the back and sides of an amplifier, while the support post can be provided with a support tray and/or brackets to hold a guitar when not in use, as well as to support a further electronic control unit. The telescopingly adjustable side legs of the stand base may also be provided with one or more further vertical support posts, which can be used to store or support additional musical accessories or equipment. A musician may use a first stand base positioned directly in front of him or her to support a microphone and with a foot controller situated between the telescopingly adjustable legs of the base, and may also use one or more separate stand bases positioned behind such performer or in a corner or the like for supporting additional equipment such as amplifiers or for storing other musical equipment when not in use in a readily accessible position on the stage. It is respectfully submitted that neither **Streit** nor **Biasini** teaches a stand base that can be adjusted to fit around various pieces of equipment of different dimensions, which arrangement as discussed has significant practical advantages over prior art stand bases.

Applicant has now amended independent claim 1 so that, it is believed, it more precisely describes the structure of Applicant's stand base, with the U-shaped support base now clearly being a positive element of the claims. The language of subparagraph (c) has been amended to reflect the fact that the first and second pairs of telescopingly adjustable legs define an adjustably dimensioned area in which equipment of various sizes may be fitted. New dependent claim 16 has been added, on which claim 2 is now dependent, adding the further limitation of a vertical support member and attachments thereto for supporting various musical equipment accessories, while new dependent claims 17-18 are directed to having more than one vertical support base attached to the stand base. Claim 2 has been further clarified to indicate that the bracket means of the

invention are used to adjustably connect such music accessory support equipment to the support members. As indicated above, independent claim 6 was rejected for obviousness-type double patenting, which rejection it is believed is overcome by the enclosed terminal disclaimer. Claims 2 and 10 were rejected in view of **Streit** and **Biasini** and further in view of **Woodhouse et al.** **Woodhouse** discloses a stand having a plurality of telescoping legs that extend outwardly from a central hub and are secured in a use position using finger screws. Applicant respectfully submits that in view of the amendments that have been made to independent claims 1 and 6, dependent claims 2 and 10 should also now be in condition for allowance. Such claims recite an adjustably-dimensioned stand base of type that is, it is respectfully submitted, patentably distinguishable from the prior art stands, including the **Streit**, **Biasini**, and **Woodhouse** stands, and any combination of such references. Therefore, it is respectfully submitted that claims 7-11 should also now be allowable. The limitations of allowable claim 13 have been added to claim 12, while claim 13 has been cancelled, so that it is also believed that claims 12 and 14-15 are also now in condition for allowance.

The Examiner has proffered **Streit** as disclosing a musician's stand having a U-shaped base, and **Biasini** as disclosing a musician's stand having telescoping legs. The Examiner has also proffered **Woodhouse** as disclosing a means for securing the telescoping legs of such stand in a use position. However, neither **Streit** nor **Biasini** teaches a stand having adjustable use positions, and the **Woodhouse** stand is adjustable to hold instruments of different sizes, not to be adjustably fitted onto a crowded stage area around other equipment. It is therefore respectfully submitted that none of such references or combination of them discloses or suggests the arrangement of Applicant's stand which adopts it for use with other stage equipment and along the outer edges of a stage with equipment between the legs or held on the support stands

Amendment
Appln. Serial No.: 10/823,092
Examiner: Ramon O. Ramirez
Group Art Unit 3632

attached to such base where it is easily accessible to foot control by the performer or musician.

In view of the above, Applicant respectfully submits that each of the presently pending claims in this application is now believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection to the claims and pass the application to issue.

Applicant hereby petitions for a two-month extension of time to file the attached response, for which payment in the amount of \$225 is enclosed. In addition, the fee under 37 CFR 1.20(d) for filing a statutory disclaimer at the small entity rate of \$65 is also enclosed. As amended, it is believed that no fees are due other than for a two-month extension and statutory disclaimer for which the total sum of \$290 is attached in the form of Check No. 5890. However, if any additional fees are due, please charge such fees against Deposit Account No. 15-0385.

Respectfully submitted,


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